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COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Item 15 of the provisional agenda

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Note by the Secretary-General

1. In accordance with the provisions of its article XV, paragraph 1, the International Convention on the Suppression and Punishment of the Crime of Apartheid entered into force on 18 July 1976, on the thirtieth day after the date of the deposit with the Secretary-General of the twentieth instrument of ratification.

2. As at 15 November 1990, the Convention had been ratified or acceded to by 88 States. A list of States parties to the Convention, as well as the dates of entry into force of the Convention for the States concerned, appears in the annex to the present note.

3. Under article VII of the Convention, the States parties undertake to submit to the group established under article IX periodic reports on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention.

4. In accordance with article IX of the Convention, the Chairman of the Commission on Human Rights is authorized to appoint a group consisting of three members of the Commission, who are also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII.

GE.90-13987/2721B

5. The Group of Three appointed by the Chairman of the Commission at its forty-fifth session held its thirteenth (1990) session at the United Nations Office at Geneva from 22 to 26 January 1990. It had before it a note by the Secretary-General (E/CN.4/1990/32) concerning the status of the Convention and the submission of reports by States parties under article VII of the Convention, as well as reports submitted by seven States parties since its twelfth (1989) session. A list indicating the status of submission of reports by States parties since the entry into force of the Convention and the sessions at which those reports were considered by the Group of Three also appears in the annex to the present note.

6. In its report to the Commission on Human Rights at its forty-sixth session (E/CN.4/1990/35), the Group of Three, inter alia, expressed its appreciation to the representatives of the reporting States for their presence at its meetings and noted with satisfaction that all but one of the reports considered by the Group were introduced by the representatives of the reporting States. Having commended those States parties which had submitted periodic reports, the Group of Three noted with concern that 33 States parties as listed in document E/CN.4/1990/32 had not submitted any report and urged in particular those States parties which had not yet submitted their initial reports to do so as soon as possible. The Group further noted with great concern that, as at 31 December 1989, more than 190 reports were overdue under the Convention, and once again strongly urged the States parties concerned to fulfil their reporting obligations, as required under article VII of the Convention.

7. The Group noted with regret that the reports submitted by some States parties were not in line with the general guidelines and therefore reiterated once again its recommendation that all States parties when preparing their reports should strictly follow the general guidelines regarding the form and contents of reports (E/CN.4/1286, annex). The Group called upon all States parties to the Convention to incorporate in their legislation provisions relating to the "crime of apartheid", including practices of racial segregation and discrimination in accordance with article II of the Convention, and to provide appropriate penalties in respect of persons guilty of the crime of apartheid, as stipulated in article IV (b) of the Convention. In that connection, the Group reiterated the view which it had expressed earlier that consideration should be given to drawing up model legislation that would serve the States parties as a guide for the implementation of the provisions of the Convention.

8. By its resolution 1990/12, the Commission on Human Rights, inter alia, took note with appreciation of the report of the Group of Three, recommended once again that all States parties should take full account of the general guidelines laid down by the Group of Three in 1978 for the submission of reports (E/CN.4/1286, annex), requested the States parties to the Convention to continue to submit their initial reports not later than two years after the entry into force of the Convention for the States parties concerned and their periodic reports at four-year intervals, on the understanding that they may submit additional information to the Group at any time in the intervening

period if they wish to do so. The Commission also drew the attention of all States to the opinion expressed by the Group of Three in its reports that transnational corporations operating in South Africa must be considered accomplices in the crime of apartheid, in accordance with article III (b) of the Convention, and called on all States whose transnational corporations continued to do business with South Africa to take all appropriate steps to terminate their dealings with South Africa. It also requested the Secretary-General to invite States parties to the Convention to express their views on the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa; requested the Group to continue, in the light of the views expressed by States parties, the examination of the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, including legal action that might be taken under the Convention against transnational corporations whose operations in South Africa came under the crime of apartheid; and to report to the Commission at its forty-seventh session. Finally, the Commission decided that the Group of Three should meet for a period of not more than five days before the forty-seventh session of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention.

9. At its forty-fifth session, in December 1990, the General Assembly, inter alia, took note of the report of the Secretary-General on the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid; commended those States parties to the Convention that had submitted their reports under article VII of the Convention and underlined the importance of the universal ratification of the Convention, which would be an effective contribution to fulfilling the ideals of the Universal Declaration of Human Rights and other human rights instruments. It appealed once again to the States that had not yet done so to ratify or to accede to the Convention without further delay, in particular those States which had jurisdiction over transnational corporations operating in South Africa and without whose co-operation such operations could not be halted; and called upon all States whose transnational corporations continued to do business with South Africa to take appropriate steps to terminate their dealings with South Africa. The Assembly also requested the Commission on Human Rights to intensify, in co-operation with the Special Committee against Apartheid, its efforts to compile periodically the progressive list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as well as those against whom or which legal proceedings had been undertaken. Furthermore, the Assembly requested the Secretary-General to circulate the above-mentioned list among all States parties to the Convention and all Member States and to bring such facts to the attention of the public by all means of mass communication; to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission with relevant information concerning the forms of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa; and to intensify his efforts, through appropriate channels, to disseminate information on the Convention and its implementation, with a view to promoting further ratification of or accession to the Convention.

READEX FICHE

10. By his notes verbales dated 15 and 21 June 1990, the Secretary-General brought to the attention of the States parties the relevant provisions of the Convention and of Commission resolution 1990/12 and General Assembly resolution 44/69 as well as the conclusions and recommendations of the Group of Three contained in the report on its 1990 session, and requested them to submit their reports within the time-limits indicated in Commission resolution 1990/12 of 23 February 1990 for transmission to the Group of Three at its 1991 session. By another note, dated 14 June 1990, the attention of specialized agencies and non-governmental organizations was drawn to the provisions of Commission resolution 1990/12 by which they were invited to provide the Commission with relevant information concerning the types of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa.

11. Since the forty-sixth session of the Commission, the following States parties to the Convention have submitted their reports: Panama (E/CN.4/1991/40/Add.1) and Bolivia (E/CN.4/1991/40/Add.2). These reports will be available to the Group of Three for examination at its fourteenth (1991) session, which is scheduled to be held in Geneva from 21 to 25 January 1991, and to the Commission on Human Rights at its forty-seventh session.

12. Any other reports which may be received by the Secretary-General in time for consideration by the Group of Three will be issued in further addenda to the present document.

Annex

STATES PARTIES TO THE CONVENTION AND STATUS OF SUBMISSION OF REPORTS IN ACCORDANCE WITH COMMISSION ON HUMAN RIGHTS RESOLUTION 1989/8 a/

State party	Date of entry into force	Date of submission of report(s)	Session at which the report was considered	Documents containing initial and periodic reports, if any
Afghanistan	5 August 1983	-	-	-
Algeria	25 June 1982	6 August 1984 28 October 1987	1985 session 1988 session	E/CN.4/1985/26/Add.3 E/CN.4/1988/30/Add.5
Antigua and Barbuda	6 November 1982	-	-	-
Argentina	7 December 1985	23 December 1987	1988 session	E/CN.4/1988/30/Add.6
Bahamas	30 April 1981	16 November 1989	1990 session	E/CN.4/1990/32/Add.6
Bahrain	27 April 1990	-	-	-
Bangladesh	7 March 1985	4 January 1988	1988 session	E/CN.4/1988/30/Add.7
Barbados	9 March 1979	17 July 1981	1982 session	E/CN.4/1505/Add.1
Benin	18 July 1976	-	-	-
Bolivia	5 November 1983	2 November 1990	-	E/CN.4/1990/40/Add.2 b/
Bulgaria	18 July 1976	4 January 1978 5 February 1980 15 December 1982 28 December 1985 26 January 1988	1978 session 1981 session 1983 session 1985 session 1989 session	E/CN.4/1277/Add.7 E/CN.4/1353/Add.10 E/CN.4/1983/24/Add.8 E/CN.4/1985/26/Add.6 E/CN.4/1989/31/Add.1
Burkina Faso	23 November 1978	-	-	-
Burundi	11 August 1978	12 November 1980 2 September 1989	1981 session 1990 session	E/CN.4/1415/Add.8 E/CN.4/1990/32/Add.5

State party	Date of entry into force	Date of submission of report(s)	Session at which the report was considered	Documents containing initial and periodic reports, if any
Byelorussian Soviet Socialist Republic	18 July 1976	8 February 1978	1979 session	E/CN.4/1277/Add.14
		6 October 1980	1981 session	E/CN.4/1415/Add.4
		25 January 1983	1984 session	E/CN.4/1983/24/Add.13
		14 May 1984	1985 session	E/CN.4/1985/26/Add.1
		21 May 1987	1988 session	E/CN.4/1988/30/Add.4
Cambodia	27 August 1981	-	-	-
Cameroon	1 December 1976	6 October 1977	1978 session	E/CN.4/1277/Add.3
		24 January 1986	1987 session	E/CN.4/1987/26/Add.1
Cape Verde	12 July 1979	25 June 1982	1983 session	E/CN.4/1983/24/Add.3
		4 August 1983	1984 session	E/CN.4/1984/36/Add.4
Central African Republic	7 June 1981	-	-	-
Chad	18 July 1976	11 September 1986	1987 session	E/CN.4/1987/26/Add.13
China	18 May 1983	6 May 1986	1987 session	E/CN.4/1987/26/Add.5
		3 July 1989	1990 session	E/CN.4/1990/32/Add.4
Colombia	22 June 1988	-	-	-
Congo	4 November 1983	-	-	-
Costa Rica	14 November 1986	-	-	-
Cuba	3 March 1977	3 January 1978	1978 session	E/CN.4/1277/Add.8
		28 January 1980	1981 session	E/CN.4/1353/Add.7
		15 March 1982	1983 session	E/CN.4/1983/24/Add.1
		2 February 1984	1985 session	E/CN.4/1984/36/Add.9
		7 February 1986	1987 session	E/CN.4/1987/26/Add.2
		26 February 1988	1989 session	E/CN.4/1989/31/Add.4

State party	Date of entry into force	Date of submission of report(s)	Session at which the report was considered	Documents containing initial and periodic reports, if any
Czech and Slovak Federal Republic	18 July 1976	20 December 1977	1978 session	E/CN.4/1277/Add.6
		20 August 1982	1983 session	E/CN.4/1983/24/Add.5
		25 November 1985	1986 session	E/CN.4/1986/29/Add.8
		11 January 1989	1990 session	E/CN.4/1989/31/Add.10
Ecuador	18 July 1976	30 April 1982	1983 session	E/CN.4/1983/24/Add.2
		2 September 1985	1986 session	E/CN.4/1986/29/Add.3
Egypt	13 July 1977	12 November 1980	1981 session	E/CN.4/1415/Add.7/Rev.1
		20 December 1983	1984 session	E/CN.4/1984/36/Add.8
El Salvador	30 December 1979	8 March 1983	1984 session	E/CN.4/1984/36/Add.2
Ethiopia	19 October 1978	2 July 1986	1987 session	E/CN.4/1987/26/Add.9
Gabon	30 March 1980	23 September 1985	1986 session	E/CN.4/1986/29/Add.4
Gambia	28 January 1979	-	-	-
German Democratic Republic */	18 July 1976	29 November 1977	1978 session	E/CN.4/1277/Add.4
		7 January 1980	1980 session	E/CN.4/1353/Add.4
		7 December 1981	1982 session	E/CN.4/1505/Add.8
		25 September 1985	1986 session	E/CN.4/1986/29/Add.5
		3 November 1988	1989 session	E/CN.4/1989/31/Add.8
Ghana	31 August 1978	17 October 1986	1987 session	E/CN.4/1987/26/Add.12
Guinea	18 July 1976	-	-	-
Guyana	30 October 1977	-	-	-

*/ In a letter dated 3 October 1990, the Federal Minister for Foreign Affairs of the Federal Republic of Germany informed the Secretary-General "that, through the accession of the German Democratic Republic to the Federal Republic of Germany with effect from 3 October 1990, the two German States have united to form one sovereign State."

State party	Date of entry into force	Date of submission of report(s)	Session at which the report was considered	Documents containing initial and periodic reports, if any
Haiti	18 January 1978	-	-	-
Hungary	18 July 1976	14 February 1978	1979 session	E/CN.4/1277/Add.16
		15 January 1980	1980 session	E/CN.4/1353/Add.6
		6 October 1981	1982 session	E/CN.4/1505/Add.6
		16 November 1983	1984 session	E/CN.4/1984/36/Add.7
		26 January 1987	1988 session	E/CN.4/1988/30/Add.2
India	22 October 1977	14 January 1980	1980 session	E/CN.4/1353/Add.5
		7 October 1982	1983 session	E/CN.4/1983/24/Add.6
		30 May 1989	1990 session	E/CN.4/1990/32/Add.2
Iran (Islamic Republic of)	18 May 1985	-	-	-
Iraq	18 July 1976	28 December 1979	1980 session	E/CN.4/1353/Add.3
		18 September 1981	1982 session	E/CN.4/1505/Add.5
		30 December 1982	1983 session	E/CN.4/1983/24/Add.10
		11 November 1985	1986 session	E/CN.4/1986/29/Add.6
Jamaica	20 March 1977	10 July 1986	1987 session	E/CN.4/1987/26/Add.10
Kuwait	25 March 1977	16 August 1977	1978 session	E/CN.4/1277/Add.1
Lao People's Democratic Republic	4 November 1981	-	-	-
Lesotho	4 December 1983	-	-	-
Liberia	5 December 1976	-	-	-
Libyan Arab Jamahiriya	7 August 1976	-	-	-
Madagascar	25 June 1977	31 January 1978	1979 session	E/CN.4/1277/Add.13
		20 September 1984	1985 session	E/CN.4/1985/26/Add.4

State party	Date of entry into force	Date of submission of report(s)	Session at which the report was considered	Documents containing initial and periodic reports, if any
Maldives	24 May 1984	25 September 1986	1987 session	E/CN.4/1987/26/Add.11
Mali	18 September 1977	5 September 1980	1981 session	E/CN.4/1415/Add.3
Mauritania	12 January 1989	-	-	-
Mexico	3 April 1980	24 August 1981 5 November 1986	1982 session 1987 session	E/CN.4/1505/Add.3 E/CN.4/1987/26/Add.14
Mongolia	18 July 1976	27 October 1981 5 August 1983 28 January 1987	1982 session 1984 session 1988 session	E/CN.4/1505/Add.7 E/CN.4/1984/36/Add.5 E/CN.4/1988/30/Add.3
Mozambique	18 May 1983	-	-	-
Namibia	11 December 1982	-	-	-
Nepal	11 August 1977	-	-	-
Nicaragua	27 April 1980	-	-	-
Niger	28 July 1978	-	-	-
Nigeria	30 April 1977	1 February 1978 22 January 1981	1978 session 1981 session	E/CN.4/1277/Add.12 E/CN.4/1415/Add.9
Pakistan	29 March 1986	20 June 1989	1990 session	E/CN.4/1990/32/Add.3
Panama	15 April 1977	31 August 1977 18 October 1990	1978 session	E/CN.4/1277/Add.2 E/CN.4/1991/40/Add.1 b/
Peru	1 December 1978	31 December 1982 15 July 1985 12 December 1988	1983 session 1986 session 1989 session	E/CN.4/1983/24/Add.12 E/CN.4/1986/29/Add.1 E/CN.4/1989/31/Add.11
Philippines	25 February 1978	9 February 1983 17 January 1989	1984 session 1990 session	E/CN.4/1984/36/Add.1 E/CN.4/1990/32/Add.1

State party	Date of entry into force	Date of submission of report(s)	Session at which the report was considered	Documents containing initial and periodic reports, if any
Poland	18 July 1976	10 February 1978	1979 session	E/CN.4/1277/Add.15
		10 March 1980	1981 session	E/CN.4/1353/Add.11
		17 December 1982	1983 session	E/CN.4/1983/24/Add.9
		9 December 1986	1987 session	E/CN.4/1987/26/Add.15
Qatar	18 July 1976	25 June 1980	1981 session	E/CN.4/1415/Add.1
		15 September 1981	1982 session	E/CN.4/1505/Add.4
		22 July 1983	1984 session	E/CN.4/1984/36/Add.3
		2 June 1986	1987 session	E/CN.4/1987/26/Add.7
		10 June 1988	1989 session	E/CN.4/1989/31/Add.6
Romania	14 September 1978	3 November 1980	1981 session	E/CN.4/1415/Add.6
		25 May 1988	1989 session	E/CN.4/1989/31/Add.5
Rwanda	22 February 1981	14 October 1983	1984 session	E/CN.4/1984/36/Add.6
		27 May 1986	1987 session	E/CN.4/1987/26/Add.6
		10 October 1988	1989 session	E/CN.4/1989/31/Add.7
Saint Vincent and the Grenadines	9 December 1981	30 June 1982	1983 session	E/CN.4/1983/24/Add.4
Sao Tome and Principe	4 November 1979	-	-	-
Senegal	20 March 1977	11 January 1978	1978 session	E/CN.4/1277/Add.10
Seychelles	15 March 1978	6 March 1986	1987 session	E/CN.4/1987/26/Add.4
Somalia	18 July 1976	-	-	-
Sri Lanka	20 March 1982	19 January 1988	1988 session	E/CN.4/1988/30/Add.8
Sudan	20 April 1977	-	-	-
Suriname	3 July 1980	21 August 1985	1986 session	E/CN.4/1986/29/Add.2

State party	Date of entry into force	Date of submission of report(s)	Session at which the report was considered	Documents containing initial and periodic reports, if any
Syrian Arab Republic	18 July 1976	9 January 1978	1978 session	E/CN.4/1277/Add.9
		18 December 1979	1980 session	E/CN.4/1353/Add.2
		18 January 1982	1982 session	E/CN.4/1505/Add.10
		8 November 1985	1986 session	E/CN.4/1986/29/Add.7
Togo	23 June 1984	-	-	-
Trinidad and Tobago	25 November 1979	29 January 1988	1989 session	E/CN.4/1989/31/Add.3
Tunisia	20 February 1977	30 January 1980	1981 session	E/CN.4/1353/Add.9
		14 February 1983	1984 session	E/CN.4/1983/24/Add.14
Uganda	10 July 1986	-	-	-
Ukrainian Soviet Socialist Republic	18 July 1976	17 March 1978	1979 session	E/CN.4/1277/Add.17
		28 October 1980	1981 session	E/CN.4/1415/Add.5
		10 January 1983	1983 session	E/CN.4/1983/24/Add.11
		20 December 1984	1985 session	E/CN.4/1985/26/Add.5
		5 January 1987	1988 session	E/CN.4/1988/30/Add.1
Union of Soviet Socialist Republics	18 July 1976	20 January 1978	1978 session	E/CN.4/1277/Add.11
		25 August 1980	1981 session	E/CN.4/1415/Add.2
		17 December 1981	1982 session	E/CN.4/1505/Add.9
		13 February 1984	1985 session	E/CN.4/1984/36/Add.10
		5 March 1986	1987 session	E/CN.4/1987/26/Add.3
		6 December 1988	1989 session	E/CN.4/1989/31/Add.9
United Arab Emirates	18 July 1976	9 December 1977	1978 session	E/CN.4/1277/Add.5
		23 July 1979	1980 session	E/CN.4/1353/Add.1
		5 August 1981	1982 session	E/CN.4/1505/Add.2
United Republic of Tanzania	18 July 1976	-	-	-

State party	Date of entry into force	Date of submission of report(s)	Session at which the report was considered	Documents containing initial and periodic reports, if any
Venezuela	27 February 1983	30 June 1986	1987 session	E/CN.4/1987/26/Add.8
Viet Nam	9 July 1981	-	-	-
Yemen	17 September 1987	-	-	-
Yugoslavia	18 July 1976	28 January 1980 14 December 1982 24 July 1984 27 January 1988	1981 session 1983 session 1985 session 1989 session	E/CN.4/1353/Add.8 E/CN.4/1983/24/Add.7 E/CN.4/1985/26/Add.2 E/CN.4/1989/31/Add.2
Zaire	10 August 1978	-	-	-
Zambia	15 March 1983	-	-	-

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a/ The Commission on Human Rights called upon the States parties to submit their first report under article VII of the Convention not later than two years after becoming parties to the Convention and their periodic reports at four-yearly intervals, with the understanding that they might submit additional information to the group at any time they wished in the intervening period.

b/ Scheduled for consideration by the Group of Three at its fourteenth (1991) session.

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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under article VII of the Convention

Addendum

PANAMA *

[18 October 1990]

1. The Republic of Panama adopted and ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid by Act No. 8 of 26 October 1976. The Government of the Republic of Panama has fully supported all United Nations decisions and resolutions aimed at eradicating the crime of apartheid.

2. Consequently, the Constitution establishes the following:

"Article 19: There shall be no personal privileges or distinctions or discrimination because of race, birth, social class, sex, religion or political ideas".

3. The Penal Code establishes the following:

"Article 311: Anyone who takes part in the total or partial destruction of a specific group of human beings because of their nationality, race, or religious or political belief shall be punished by 15 to 20 years' imprisonment".

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*/ The initial report submitted by the Government of Panama (E/CN.4/1977/Add.2) was considered by the Group of Three at its 1978 session.

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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under article VII of the Convention

Addendum

BOLIVIA

[2 November 1990]

1. When Bolivia began its life as a sovereign and independent nation in 1825, it inherited a colonial political and social structure in which the vast majority of the population was subjected to various forms of discrimination.

2. Fundamental human rights were embodied in the first Political Constitution in order to guarantee all inhabitants of the nation, regardless of race, religion or social status, equality of rights before the law.

3. However, it was more than a century before indigenous groups came to enjoy all their rights and obligations. After the 1952 Revolution, the process of the integration into Bolivian society of the entire rural and urban population began with the establishment of universal suffrage and educational and agrarian reforms, which enabled the indigenous populations democratically to elect their representatives, accede to or exercise the right to education and recover the right to own property.

4. In this historical context, Bolivia signed and ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid because it is against any kind of discrimination based on race, religion, sex or social status.

5. Bolivia is a multiracial country where over 100 ethnic groups live together. Many of these ethnic groups still live in primitive conditions, but one of the Government's constant concerns is to try to involve them in the life of the country, while respecting their customs and lifestyle. With this objective in mind, the current Government has set up an ad hoc committee to draft a bill to be entitled the "Ethnic Groups Act".

6. It should be pointed out that, although the Government of Bolivia has signed and ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid, it has not adopted any new legislative, judicial, administrative or other measures. However, the legislation in force is entirely in keeping with the basic provisions against apartheid.

7. The 1967 Political Constitution is based on respect for the loftiest individual and collective principles of Bolivian society. Its articles 7 and 8 provide for the basic human rights embodied in the Universal Declaration of Human Rights.

8. In part One, "The person as a member of the State", title One, "Fundamental rights and duties of the person", of the Political Constitution, article 5 states that "No type of servitude is recognized and no one may be compelled to perform personal services without his full consent and fair remuneration. Personal services may be required only as established by law".

9. Article 6 read: "Every human being enjoys legal personality and capacity, in accordance with the laws. He enjoys the rights, freedoms and guarantees recognized by this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin or economic, social or other status. The dignity and freedom of the person are inviolable. To respect and protect them is the primary duty of the State".

10. The following information is provided in accordance with the order established by the general guidelines regarding the form and contents of reports, as transmitted by the Commission on Human Rights:

(a) In book II, Special Part, title I, Crimes against the security of the State, chapter IV, Crimes under international law, of the Bolivian Penal Code, article 138 defines the crime of genocide in the following way: "Anyone who, with intent to destroy, in whole or in part, a national, ethnic or religious group, kills or causes injury to the members of the group, inflicts on them inhuman conditions of life, imposes measures intended to prevent births within the group or forcibly transfers children and adults to other groups shall be liable to 10 to 20 years' imprisonment".

The concept of genocide is broader than that of apartheid because it covers not only racial discrimination, but also discrimination on the grounds of nationality or religion. The fact of destroying, in whole or in part, a national, ethnic or religious group is the result of conduct engaged in with a view to extermination and, even if extermination does not occur, the aim is to make the national, ethnic or religious group disappear. The Bolivian Penal Code also characterizes as genocide the act of subjecting such groups to inhuman conditions of life or, in other words, to slave labour and it refers to the imposition of measures intended to prevent births within the groups. Genocide also means forcibly transferring children or adults to other groups or forcing groups to live in places which are different from those they have chosen or, in other words, forced migration.

(b) It should also be pointed out that genocide and, by implication, apartheid are regarded by Bolivian legislation as serious crimes which are subject to harsh punishment because they are a threat to the security of the State and to international peace and security.

(c) With regard to the obligation provided for in article IV (b) of the Convention, Bolivian legislation states that any Bolivian or foreigner who commits an offence in Bolivia must be punished under Bolivian law. This situation is covered in article 1, paragraph 1, of the Penal Code and article 8 of the Political Constitution.

(d) As to article III of the Convention, the Bolivian Penal Code characterizes as criminals any persons who commit the crime of genocide or any other crime referred to in the Code. The penalty or punishment is harsher when the crime is committed by a government official.

(e) With regard to article XI of the Convention, article 3 of the Penal Code states that "No person subject to the jurisdiction of Bolivian laws may be handed over for extradition to another State, except as otherwise provided by a reciprocal international treaty or agreement. The Supreme Court shall decide whether extradition will be granted or not. In the event of reciprocity, extradition cannot be granted if the act for which it is requested is not a crime under the law of the requesting State and the granting State".

(f) As to article IV (a) of the Convention, the Bolivian Penal Code prosecutes and punishes any type of acts intended publicly to encourage any crime. Article 130 (Public incitement to the commission of a crime) and article 131 (Advocacy of the crime) cover this situation and provide for a harsher penalty in the case of incitement to a crime against the security of the State.

(g) With regard to article VI of the Convention, Bolivia has, as stated above, not adopted any legislative, judicial, administrative or other measures to accept and carry out in accordance with the Charter of the United Nations the decisions taken by the Security Council aimed at the prevention, suppression and punishment of the crime of apartheid, since any convention which is signed and ratified by the Government of Bolivia is considered to be a law of the Republic. Until now, moreover, Bolivia has always supported all General Assembly and Security Council resolutions on this question.

11. Lastly, with regard to paragraphs 5 and 6, it should be noted that there is no record in Bolivia of the commission of the crimes of genocide and apartheid. If such crimes were committed, the United Nations Centre for Human Rights would be informed immediately.

12. For the information of the United Nations Commission on Human Rights, copies of the Bolivian Penal Code and the Political Constitution, the foundation of all Bolivian laws, are attached to the present report. */

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*/ The documents are available for consultation in the secretariat files.

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Forty-seventh session
Item 15 of the provisional agenda

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Views and information submitted by States parties, specialized agencies and non-governmental organizations in accordance with Commission on Human rights resolution 1990/12

Note by the Secretary-General

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I. REPLIES RECEIVED FROM STATES PARTIES

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GE.90-13920/8685A

Introduction

1. In its resolution 1990/12 the Commission on Human Rights, inter alia, requested the Secretary-General (a) to invite States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid to express their views on the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, and (b) to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission with relevant information concerning the types of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa.

2. By the same resolution, the Commission requested the Group of Three established under the Convention to continue, in the light of the views expressed by States parties, the examination of the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, including legal action that might be taken under the Convention against transnational corporations whose operations in South Africa came under the crime of apartheid, and to report to the Commission at its forty-seventh session.

3. In notes verbales dated 18 May and 14 June 1990, the Secretary-General brought to the attention of States parties, the specialized agencies and non-governmental organizations the relevant provisions of Commission resolution 1990/12 and invited them to submit their views and any relevant information in time for consideration by the Group of Three and the Commission at its forty-seventh session.

4. Views and information submitted by the Governments of Ecuador and the Ukrainian Soviet Socialist Republic are reproduced below. Any further replies which may be received by the Secretariat will be issued in addenda to this document.

ECUADOR

[Original: Spanish]
[21 June 1990]

1. In this regard, it should be mentioned that the Constitution of Ecuador forbids any form of racial discrimination, and that, in pursuance of that provision, title II of the Criminal Code contains a chapter on offences relating to racial discrimination, which states:

> "The following shall be liable to a term of imprisonment of six months to three years: (1) Anyone who, by whatever means, disseminates ideas based on superiority or racial hatred; (2) Anyone who in any manner incites to racial discrimination; (3) Anyone who perpetrates acts of violence or incites others to commit them against any race, person or group of persons of whatever colour or ethnic origin; and (4) Anyone who finances, helps or contributes to any kind of racist activity".

2. In addition to the above provision of the law, it should be mentioned that Ecuador maintains no relations of any kind with South Africa and has no jurisdiction over transnational enterprises operating there; consequently, it has not invested in South Africa or granted loans to the South African Government; it does not promote or support trade with South Africa; it does not maintain any military, police or intelligence co-operation with South Africa; it does not co-operate in nuclear matters with the South African State or institutions and does not export petroleum or petroleum products to South Arican territory.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]
[18 October 1990]

1. The Ukrainian SSR has consistently stood for the elimination of the criminal system of apartheid, which runs counter to the norms and principles of international law and carries with it a serious threat to peace and prosperity in southern Africa.

2. The long-awaited proclamation of Namibia's independence testified to the fact that the positive processes occurring in the world have also affected this region of the planet. Together with the use of various effective measures to exert pressure on the apartheid régime, up to and including the application of mandatory sanctions against South Africa, the possibility is emerging of a settlement of the South African problem through talks between representatives of all strata of the South African population. The Ukrainian SSR shares the view expressed by the sixteenth special session of the United Nations General Assembly in the "Declaration on Apartheid and its Destructive Consequences in Southern Africa" that "a conjuncture of circumstances exists which," if the South African régime displays a genuine and serious readiness to take part in negotiations, "could create the possibility to end apartheid through negotiations". The Ukrainian SSR considers that the settlement of the conflict by political means, through a comprehensive national dialogue, is the most acceptable solution. Our common duty is to promote this process and the establishment of the proper climate for talks through the measures set out in the Declaration. At the same time, the existing means of pressure on the South African régime must not be relaxed until apartheid has been eradicated.

3. In the territory of the Ukraine there are no transnational corporations with activities in South Africa. The Ukrainian SSR, which stands for the speediest elimination of all forms of racism and racial discrimination, is taking a variety of legislative, judicial, administrative and other steps. Article 67 of the Constitution of the Ukrainian SSR stipulates that "it is the internationalist duty of the citizens of the Ukrainian SSR to promote friendship and co-operation with peoples of other lands and help maintain and strengthen world peace". On 14 April 1989 the Criminal Code of the Ukrainian SSR was amended to provide for responsibility for intentional actions designed to incite national or racial hostility or discord or to diminish national honour and dignity, as well as any direct or indirect limitation of the rights of, or the establishment of any direct or indirect privileges for, citizens on grounds of their race or nationality. The Declaration on the State Sovereignty of the Ukraine, adopted by the Supreme Soviet of the Ukrainian SSR on 16 July 1990, acknowledges the primacy of universal human values and the priority of the universally accepted norms of international law.

4. The Ukrainian SSR has taken an active part in the development of many international legal instruments in this field, particularly such instruments as the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention against Apartheid in Sports and so on. The Ukrainian SSR was among the first to sign and ratify these instruments, and complies with their provisions.

5. The Ukrainian SSR plays an extensive role in international activities - including those under United Nations auspices - aimed at a political settlement of the situation in South Africa. Specifically, representatives of the Ukraine actively participate in the work of the United Nations Special Committee against Apartheid and the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa, the Group of Three set up by the Commission on Human Rights to examine reports submitted by States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid, and the Commission against Apartheid in Sports.